

UNITED STATES OF AMERICA 94 FERC ¶ 61,271  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Curt Hébert, Jr., Chairman;  
William L. Massey, and Linda Breathitt.

Southern Company Services, Inc.

Docket No. RT01-77-000

ORDER ON PETITION FOR DECLARATORY ORDER

(Issued March 14, 2001)

In this order, the Commission finds that Southern Company Services, Inc.'s (Southern) proposals to limit a proposed Regional Transmission Organization's (RTO) functions to include only new wholesale transmission services and to have the benefits of certain rate incentives flow to entities other than the RTO operator are inconsistent with the provisions of Order No. 2000.<sup>1</sup> Accordingly, the Commission denies the petition for declaratory order on these grounds. In addition, numerous other serious omissions exist in Southern's petition, some of which Southern even acknowledges.

As an alternative to revising its application, Southern should consider joining neighboring utilities in an RTO for the Southeast. We will direct Southern to file a status report no later than May 14, 2001, informing the Commission as to the progress in forming an RTO for the Southeast.

I. Background

On October 16, 2000, Southern, acting as agent for Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company and Savannah Electric and Power Company (the Southern Companies), filed a petition for declaratory order in response to Order No. 2000. The Southern Companies state that they are weighing their options as to how they can comply with the Commission's requirements governing the appropriate characteristics and functions of an RTO. To assist their evaluation, Southern Companies seek guidance from the Commission on a range of issues.

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<sup>1</sup>Regional Transmission Organizations, Order No. 2000, FERC Stats. & Regs. ¶ 31,089 (1999), 65 Fed. Reg. 809 (January 6, 2000), order on reh'g, Order No. 2000-A, FERC Stats. & Regs. ¶ 31,092, 65 Fed. Reg. 12,088, 90 FERC ¶ 61,201 (2000), petitions for review pending sub nom. Public Utility District No. 1 of Snohomish County, Washington v. FERC, Nos. 00-1174, et al. (D.C. Cir.).

In brief, the Southern Companies propose that they assign control over their transmission facilities to a for-profit "Gridco." The Southern Companies have not settled on the Gridco's corporate structure. However, the Southern Companies assert that Gridco will have all the characteristics and functions required by Order No. 2000 for an RTO.

The Southern Companies' proposed Gridco initially would comprise the five Southern Companies. The Southern Companies propose that transmission facilities from 40kV or higher and a capacity of 500 kVA or higher be included in the RTO. Southern Companies propose that Gridco offer transmission services only to new wholesale services or load. Existing transmission owners' transmission services related to bundled retail service or native load would not be under Gridco's control. The Southern Companies propose a variety of incentive mechanisms that they assert will motivate Gridco to maintain reliability, reduce operational, administrative and congestion costs, and improve the facility mix of the RTO.

Southern Companies state that the Gridco could be created by late 2001. However, Southern Companies caution that numerous Federal and state regulatory approvals will be necessary before the RTO could become operational.

Notice of the filing was published in the Federal Register, with comments, protests, and interventions due on or before November 20, 2000.<sup>2</sup> The interveners are listed on the attached Appendix.

## II. Discussion

### A. Procedural Matters

Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure,<sup>3</sup> the notice of intervention by the Florida Commission and the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding. Given the lack of any delay to the proceeding or prejudice to any party, we will accept the late filed motions to intervene of the Alabama and Georgia Commissions and the late-filed comments of the Florida and Georgia Commissions.

### B. Scope of Services the RTO Offers

#### 1. Proposal

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<sup>2</sup>65 Fed. Reg. 64,217 (2000).

<sup>3</sup>18 C.F.R. § 385.214 (2000).

The Southern Companies propose to assign most of the facility operations and control aspects appropriate for an RTO to Gridco. However, the Southern Companies also propose that Gridco be limited to offering only new wholesale transmission services under Gridco's tariff and that transmission services related to the transmission owners' bundled retail services or native load not be included among Gridco's services.<sup>4</sup> In other words, existing transmission services, including services for retail and wholesale native load over the RTO's facilities, would not be provided under Gridco's tariff; the only transmission services that Gridco may offer are new wholesale transmission services using transmission capacity not otherwise reserved for the transmission owners.

As a result of these limitations, the vast majority of total transmission load would not be subject to the RTO's tariff and under the operation and direction of the RTO.

## 2. Guidance

The Southern Companies propose to limit Gridco to only new wholesale transmission services, which results in only a very small percentage of total transmission load and costs being subject to the RTO's operation. As we explain herein, this proposal is not consistent with Order No. 2000.<sup>5</sup> Therefore, we will reject this aspect of the Southern Companies' proposal.

Order No. 2000 and section 35.34(k) of the Commission's regulations require that an RTO be the only provider of transmission services over the facilities under its control. Section 35.34(k)(1)(i) provides that:

The Regional Transmission Organization must be the only provider of transmission service over the facilities under its control, and must be the sole administrator of its own Commission-approved open access transmission tariff. The Regional Transmission Organization must have the sole authority to receive, evaluate, and approve or deny all requests for

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<sup>4</sup>According to the Southern Companies, Gridco would administer a transmission tariff that provides unbundled wholesale transmission service across the entire region at a single rate. Gridco would be the exclusive supplier of all new wholesale transmission service in the area. However, transmission owners would not be required to purchase service from Gridco for their bundled retail service or wholesale native load. See Petition at 23.

<sup>5</sup>This same issue is also addressed in our order on the GridSouth RTO, which is being issued along with the instant order. We urge the Southern Companies (and other parties to the instant proceeding) to follow the guidance of that order as well.

transmission service. The Regional Transmission Organization must have the authority to review and approve requests for new interconnections.<sup>[6]</sup>

In Order No. 2000, the Commission noted the strong support for this standard by the interveners. With the RTO acting as the sole provider of transmission service, transmission customers are afforded access to regional transmission facilities on a non-discriminatory and uniform basis. This type of access cannot be assured if customers are required to deal with several transmission owners with differing tariff terms and conditions. As noted in Order No. 2000, the RTO must be the provider of transmission service in the fullest sense of the term. Mere monitoring and dispute resolution are insufficient to meet the requirements of this standard.<sup>7</sup> This is because an RTO cannot be expected to plan, design, and operate a regional grid in a manner that maximizes efficiency and optimizes needed infrastructure investment if its rates apply only to fraction of the RTO investment, load, and revenue stream. Therefore, an RTO must control the entire revenue requirement for the services it performs.

The Commission addressed this issue again on rehearing in Order No. 2000-A.<sup>8</sup> Duke Energy Corporation (Duke) and Edison Electric Institute requested clarification that the requirement that the RTO be the sole provider of all transmission service is not intended to require unbundling of non-jurisdictional transmission service. Duke argued that because the Commission lacks jurisdiction over bundled retail transmission, the Commission, through rulemaking, has no power to indirectly require the unbundling of retail energy sales. Duke proposed changing 18 C.F.R. § 35.34(k)(1)(i) to limit it exclusively to wholesale transmission service.

The Commission denied rehearing. We stated that the proposed revision would prevent the RTO from performing those retail transmission services that are already included in the open access transmission tariff, i.e., unbundled retail transmission that may occur, voluntarily or as the result of state action, on the system of the historical bundled retail supplier, or unbundled retail transmission service provided by other transmission providers that constitute more remote segments of a multi-system transmission transaction).<sup>9</sup>

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<sup>6</sup>18 C.F.R. § 35.34(k)(1)(i) (2000).

<sup>7</sup>Order No. 2000, FERC Stats. & Regs. ¶ 31,089 at 31,108.

<sup>8</sup>Order No. 2000-A, FERC Stats. & Regs. ¶ 31,092 at 31,374-75.

<sup>9</sup>Id. at 31,375.

The Commission also clarified that Order No. 2000's requirement that the RTO be the sole provider of transmission services is not intended to require the unbundling of non-jurisdictional transmission service (i.e., the transmission component of bundled retail sales of energy). We stated:

That is, the requirement does not interfere in any way with whether retail open access and retail choice are provided, or with the pricing of retail bundled power sales which is a decision for appropriate state authorities. However, the requirement is intended to require that the RTO control all transmission facilities in the region.<sup>10]</sup>

The Commission stated that its approach on this issue is consistent with its approach to ISOs. As an example, the Commission cited to a PJM order<sup>11</sup> in which it noted that when transmission owners engage in transactions under the PJM Tariff to meet retail load, they simultaneously arrange with PJM to make bundled retail sales and use the transmission systems of the other transmission owners to import power used to make bundled retail sales. This accommodation allows PJM to provide service at wholesale as well as at retail and to provide service in states that have retail choice as well as states that do not have retail choice, without a conflict between state and Federal authority.<sup>12</sup>

The scope of services of an RTO must include all transmission services within its service territory. This is necessary to enable the RTO to fulfill all of the characteristics and functions of an RTO, as Order No. 2000 requires. Because the vast majority of total transmission load will be excluded from Gridco's tariff, Gridco will not be able to function as a viable, stand-alone transmission business providing "one-stop shopping", as we intend RTOs to function.<sup>13</sup> Therefore, we will reject this aspect of the Southern Companies' proposal.<sup>14</sup>

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<sup>10</sup>Id. (emphasis in original).

<sup>11</sup>Pennsylvania-New Jersey-Maryland Interconnection, L.L.C., 81 FERC ¶ 61,257 at 62,281-82 (1997) (PJM).

<sup>12</sup>Order No. 2000-A at 31,175.

<sup>13</sup>See Order No. 2000 at 31,173.

<sup>14</sup>As we explain later, as an alternative to revising its petition, the Southern Companies should consider joining neighboring utilities in an RTO for the Southeast.

Finally, we note that one of the Southern Companies, Georgia Power Company, and Georgia Transmission Company, the Municipal Electric Authority of Georgia, and the Board of Water, Light and Sinking Fund Commissioners of the City of Dalton, Georgia are parties to the Integrated System Agreement (ITS Agreement). Under this agreement, the parties provide transmission services across the state of Georgia on one another's transmission systems. Because the facilities subject to the ITS Agreement are a key component to transmission access throughout the Southeast, it is important that all of the ITS Agreement signatories be involved in discussions the Southern Companies have with neighboring utilities regarding an RTO for the Southeast.<sup>15</sup>

C. Incentive Pricing

1. Proposal

While the Southern Companies do not propose specific rates for the RTO, they do propose numerous incentives, both for transmission owners (including the Southern Companies) to join the proposed RTO, and for Gridco once the RTO is operating. The incentives are designed to motivate improved performance by both the Southern Companies (and any other transmission owners) and Gridco. The Southern Companies seek guidance on their proposed incentive pricing structure.<sup>16</sup> While we will provide general guidance on the Southern Companies' incentive rate proposal, we are not approving any aspect of the proposal at this time.

a. Incentives Associated with the Transmission Owners' Revenue Requirements

The Southern Companies propose that participating transmission owners receive an allocated share of total transmission revenue requirements that are associated with wholesale transmission service from Gridco. The transmission revenue requirement would be forecast for five-year periods. These five-year projections generally would use traditional cost of service principles. Once the Commission approved the revenue requirements, they would go into effect automatically at the beginning of each year of the five-year period without any further Commission action.

Existing transmission assets and new transmission assets would be treated differently. With respect to existing transmission assets, depreciation expense would be

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<sup>15</sup>See Section D of this order.

<sup>16</sup>The pricing proposal is summarized in the Petition at 62-83. Attachment G to the petition contains a more detailed description of the proposal.

determined on a straight-line depreciation basis. The base return on equity (ROE) on existing transmission assets would be the higher of the weighted average of the state-approved ROEs or a FERC-approved ROE.

New transmission assets would be treated differently. First, shorter depreciation lives (20 years) would be used for all new transmission investment. Second, certain investment will receive a premium return, which the Southern Companies propose to be set at 200-400 basis points above the base ROE. The Southern Companies propose that the following investments earn a premium return: (1) investments that increase interregional transmission capacity; (2) investments that are particularly risky; or (3) investments that improve the performance of wholesale markets. The Southern Companies state that they might propose other categories of investment for premium returns in the future. The Southern Companies state that both the use of accelerated depreciation for new transmission investment and the use of premium returns are consistent with Order No. 2000.

Costs associated with new plant would be recovered through annual rate change filings.<sup>17</sup> The purpose of these filings would be to inform the Commission of changes in plant. The rate changes would be implemented automatically, without separate Commission review. These annual filings would also include O&M inflation adjustments and adjustments to reflect costs changes related to productivity and load growth.

b. Performance-Based Regulation Incentives Associated with Gridco's Transmission Access Charge

According to the proposal, the bulk of Gridco's revenues would come from access charges paid by wholesale transmission customers. The access charges would reflect: (1) the transmission service revenue requirements for all transmission owners associated with both existing transmission assets and projected new transmission investments<sup>18</sup>, plus (2) administrative costs associated with Gridco's own activities, minus (3) contributions Gridco receives from other sources (including a percentage of short-term and non-firm transmission revenues), plus or minus (4) the effects of various performance-based regulation (PBR) incentive mechanisms.

The Southern Companies propose four types of PBR incentive mechanisms: (1) incentives for quality-of-service performance; (2) incentives to reduce indirect costs; (3)

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<sup>17</sup>The Southern Companies explain that, because Gridco's facility plans are not yet ready, they initially would use their own facility plans.

<sup>18</sup>This was described in the previous section.

incentives to reduce must-run generation; and (4) incentives for non-firm and short-term firm sales (throughput). The Southern Companies note that because these PBR incentives relate to the operation of the entire system, they would be charged to all users of the system on a load-ratio basis. The Southern Companies acknowledge that they are still working out the specific details of these mechanisms. We briefly discuss each of these in turn.

The quality-of-service PBR incentive mechanism would be a potential adjustment to Gridco's access charge to provide incentives to Gridco to maintain or improve reliability or other quality of service characteristics. The Southern Companies state that such incentives are common in PBR plans and serve to ensure that service quality does not deteriorate. In essence, Gridco would receive penalties or rewards based on how its performance compares to benchmark levels. The penalties or rewards are in the form of annual changes in the access charge based on last year's performance. While the Southern Companies have not yet settled on the specific quality-of-service PBR mechanisms, they expect to include measures relating to conformance to NERC planning and operating criteria, satisfactory control area operation, and customer satisfaction with service (including billing, timing for new load and generation interconnections, service initiation, and dispute resolution).

While details have not yet been worked out, the Southern Companies intend to include mechanisms to motivate Gridco to reduce losses and congestion costs, which are two types of "indirect" transmission costs. These PBR mechanisms would reward Gridco for operating its system in a manner that reduces losses when it is economic to do so, to encourage the addition of new transmission facilities when such new facilities would reduce losses, and to reduce congestion when it is economic to do so.

The PBR incentive to reduce must-run generation costs would operate to motivate Gridco to make (or to encourage transmission owners to make) investments to reduce requirements for must-run generation by allowing Gridco to realize a portion of the savings that such investments create. This would be done by comparing actual payments to must-run generators over a specific time period to estimates of such payments. Gridco would receive a portion of the savings associated with actual payments being less than projected payments, assuming that the savings can be attributed to investments that Gridco or the transmission owner made. The savings would be in the form of a higher access charge in the next year.

The PBR incentive for non-firm and short-term firm sales would operate to encourage such transmission services by allowing Gridco to retain a portion of the revenues paid by the customers receiving such services. (The remaining revenues would be used to reduce the access charge.) The Southern Companies do not specify any particular percentage of savings. According to the Southern Companies, this mechanism would work



to benefit customers by motivating Gridco to increase throughput on the transmission network.

c. Other PBR Incentives

The Southern Companies propose two other PBR incentives. The first is a provision for exogenous factors, which the Southern Companies call "Z factors." According to the Southern Companies, Z factors are positive or negative adjustments to the transmission owners' revenue requirements or to Gridco's access charge to reflect changes in costs due to modifications in law, regulation, or other factors that are significant in magnitude, are unforeseen at the start of the PBR period, and are beyond the control of either Gridco or the transmission owners. Some potential Z factors are major changes in accounting rules, tax laws, or mandated environmental regulations. The PBR incentive associated with Z factors would be implemented through a positive or negative adjustment in the forecast revenue requirements of the transmission owners or to Gridco's access charge, as appropriate. Commission approval of any Z factor adjustment would be required.

Finally, the Southern Companies note that Gridco may elect to offer unregulated services (such as consulting services for other transmission providers). Here, the incentive would be that Gridco would reap the rewards (and bear of risks) of offering such services, although the Southern Companies specify that such services would be offered under terms and conditions that insulate the rates regulated customers pay.

2. Guidance

The Commission stated in Order No. 2000 that all RTOs, regardless of ownership structure, may propose transmission pricing reforms that suit their strategic and economic objectives to the extent consistent with the order.<sup>19</sup> In addition, the Commission stated that sensible pricing reform that could promote competition and efficiency in other contexts will achieve maximum benefits only when applied on a regional, rather than a single-system basis.<sup>20</sup> Order No. 2000 extensively discussed why various cost and rate incentives would be appropriate and acceptable.<sup>21</sup>

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<sup>19</sup>Order No. 2000 at 31,173.

<sup>20</sup>Id. at 31,172.

<sup>21</sup> See generally id. at 31,170-96, wherein various PBR incentives are described as appropriate for motivating the operator of the RTO to improve grid operations

The fundamental premise behind PBRs and other forms of incentive mechanisms is to facilitate and reward improved grid operations.<sup>22</sup> In Order No. 2000, we stated that PBRs allow the Commission to rely on market-like forces "to create incentives for RTOs to efficiently operate and invest in the transmission system."<sup>23</sup> We noted that those interveners who support PBRs did so on the grounds that PBRs and other forms of incentive regulation "will significantly enhance the incentives RTOs have to make efficient operating and investment decisions."<sup>24</sup> We explained that "PBR rewards and penalties should create incentives for an RTO to make efficient operating and investment decisions, and should not compromise system reliability."<sup>25</sup>

In Order No. 2000, we stated that our policy on proposals for passive ownership of RTOs by market participants requires that the Commission be satisfied that:

the passive owners have relinquished control over operational, investment and other decisions to ensure that the RTO will treat all users of the grid – passive owners and others – on an equal basis in all matters. The burden of proof is on the RTO to demonstrate that control of the RTO is "truly independent" and that the RTO has a decision-making process that is independent of control by the passive owners.<sup>[26]</sup>

As part of this policy, we encouraged market participants to explore arrangements that would provide the greatest assurance of independence, and cited to Rule 250.7(d) of the Securities and Exchange Commission's (SEC) regulations, which establishes criteria under which entities may have ownership interests that, because they unbundle compensation from performance, do not trigger SEC jurisdiction under the Public Utility Holding Company Act of 1935.<sup>27</sup>

Finally, in section 35.34(e)(1), governing innovative rate treatments for RTOs, we stated that an application for an innovative rate treatment must include:

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<sup>22</sup>Id. at 31,181.

<sup>23</sup>Id. at 31,182.

<sup>24</sup>Id. at 31,182-83.

<sup>25</sup>Id. at 31,185.

<sup>26</sup>Id. at 31,066.

<sup>27</sup>Id. at 31,068.

- (i) A detailed explanation of how any proposed rate treatment would help achieve the goals of Regional Transmission Organizations, including efficient use of and investment in the transmission system and reliability benefits to consumers;
- (ii) A cost-benefit analysis, including rate impacts; and
- (iii) A detailed explanation of why the proposed rate treatment is appropriate for the Regional Transmission Organization.<sup>[28]</sup>

The Southern Companies propose numerous PBR and cost incentives associated with membership in the RTO. Those of the PBR incentives that operate to motivate the grid operator to perform in response to the market and to improve grid operation are consistent with Order No. 2000, and therefore would be acceptable for an approved RTO. In other words, we would accept those incentives that are properly configured in that they reward the grid operator and decision-maker for improved grid performance (or penalize it for lackluster performance), in a manner consistent with Order No. 2000.

However, other incentives (such as the increased ROE on existing plant and the automatic tracking of certain costs) are not designed in a manner consistent with Order No. 2000 and section 35.34(e) of the Commission's regulations, and therefore are not acceptable. This is because these incentives would flow to the transmission owners who, because they are proposed to be passive owners of the RTO, do not make any decisions regarding grid operations.<sup>29</sup> Simply put, it is inappropriate to send a price signal to a passive owner that cannot respond to the price signal. Because the Southern Companies' proposal does not meet the provisions of Order No. 2000, we will reject this aspect of the Southern Companies' proposal.<sup>30</sup>

#### D. Filing of Status Report

In this order, we have provided guidance on two critical aspects of RTO formation, while reserving judgment on others. As an alternative to reforming and resubmitting their proposal, the Southern Companies should consider joining neighboring utilities in an RTO for the Southeast. In this regard, we will direct the Southern Companies to file a status

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<sup>28</sup>18 C.F.R. § 35.34(e)(1)(i)-(iii) (2000).

<sup>29</sup>In contrast, an ROE premium that flows to the RTO itself would be acceptable.

<sup>30</sup>We note that we offer our guidance on ROE premiums only with respect to passive owners and transcos.

report with the Commission on or before May 14, 2001 that informs the Commission of the progress in forming an RTO for the Southeast.

The Commission orders:

(A) The Southern Companies' petition for declaratory order is hereby denied in part, as discussed in the body of this order. The Commission makes no findings with regard to any other issue or proposal raised by the filing.

(B) The Southern Companies are hereby directed to file a status report on or before May 14, 2001, as discussed in the body of this order.

(C) The late-filed motions to intervene of the Alabama and Georgia Commissions are hereby accepted for filing, as discussed in the body of this order.

(D) The late-filed comments of the Florida and Georgia Commissions are hereby accepted for filing, as discussed in the body of this order.

By the Commission. Commissioner Massey concurred in part and dissented in part with a separate statement attached.

( S E A L )

David P. Boergers,  
Secretary.

Appendix  
List of Interveners

<u>Interveners<sup>31</sup></u>	<u>Filed Comments/Protest</u>
Alabama Electric Cooperative, Inc.	X
Alabama Municipal Electric Authority and American Public Power Association	X
Alabama Public Service Commission *	
American Forest & Paper Association	X
Automated Power Exchange, Inc.	X
Birmingham Southeast, LLC	X
Board of Water, Gas & Light Commissioners of Albany, Georgia	
Board of Water, Light & Sinking Fund Commissioners of the City of Dalton, Georgia	X
BP Energy Company	
Calpine Eastern	X
Carolina Power & Light Company	
Central Electric Power Cooperative, Inc.	
City of LaGrange, Georgia	
City of Tallahassee, Florida	X
Coastal Merchant Energy, LP	X
Constellation Power Source, Inc.	
Duke Energy Corporation <sup>32</sup>	
Duke Energy North America, LLC	X
Dynegy, Inc.	X
Enron Power Marketing Inc. and Coral Power, LLC (both jointly and separately)	X
Edison Mission Energy and Edison Mission Marketing & Trading, Inc.	X
Electric Power Association of Mississippi, Inc.	
Electric Power Research Institute	
Electric Power Supply Association	X
Entergy Power Generation Corporation	
Florida Public Service Commission (Florida Commission)	
Georgia Public Service Commission *	
Georgia Transmission Corporation	X

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<sup>31</sup>This list names each entity that filed a motion to intervene or a notice of intervention. Companies that also filed comments or protests are identified with an "X." Late filed motions are identified with an asterisk (\*).

<sup>32</sup>On behalf of Duke Power Company and Duke Electric Transmission Company (Duke).

AppendixList of Interveners

Industrial Consumers (Electric Consumers Resource Council, American Iron and Steel Institute, American Chemistry Council, and American Forest & Paper Association)	X
JEA (formerly known as Jacksonville Electric Authority)	
Memphis Light, Gas and Water Division	
Monroe Power Company	
Morgan Stanley Capital Group Inc.	X
Municipal Electric Authority of Georgia	X
National Rural Electric Cooperative Association	
Oglethorpe Power Corporation	
PECO Energy Company	X
PG&E National Energy Group	
Reliant Energy Power Generation, Inc.	
Shell Energy Services Company, LLC	
SMI Steel, Inc., Division of Commercial Metals Company	X
South Carolina Electric & Gas Company	
South Carolina Public Service Authority	X
Southeastern Power Administration, U. S. Department of Energy	X
Southern Natural Gas Company	X
South Mississippi Electric Power Association	X
Tenaska, Inc.	
Tennessee Valley Public Power Association	
Tractebel Energy Marketing, Inc. and Tractebel Power, Inc.	X
Williams Companies, Inc.	

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Southern Company Services, Inc.

Docket No. RT01-77-000

(Issued March 14, 2001)

MASSEY, Commissioner, *concurring in part and dissenting in part*:

With this order and the order we issue today on the Grid South RTO proposal,<sup>1</sup> the Commission begins the process of getting RTOs formed in the southeastern United States. Both orders recognize that more work is to be done. I would have preferred that our orders more aggressively prod the applicants toward a single southeastern RTO.

I would have preferred that we order both sets of applicants to attend a conference overseen by a Commission ALJ, the object of which would be to form a single RTO for the southeastern U.S. My reasoning for doing so differs for each applicant, but the bottom line is that they need each other.

As the draft order effectively states, the Southern Companies' proposal falls far short of Order No. 2000 compliance on the scope of transmission service that would be offered by the RTO. Southern proposes that only new wholesale transmission service using capacity not otherwise reserved for the transmission owners would be offered by the RTO, thereby excluding the vast majority of total transmission load. I fully support the order's rejection of this proposal.

Given the lack of a serious proposal by Southern on the table, and the fast approaching December 15th target for RTO operation, Southern needs an RTO framework within which to operate. Grid South has that framework. I would have preferred that we require Southern to negotiate with Grid South before an ALJ. Instead, the order rejects once again the filing and directs Southern to report on its progress toward forming an RTO in the Southeast. We are missing a valuable opportunity to move these parties forcefully toward our goal of a single RTO for the southeast.

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<sup>1</sup>Carolina Power & Light, et al., Docket No. RT01-74.

My dissent is limited to the guidance on incentive pricing in this order. Southern did not make a serious RTO proposal. Therefore, there is no reason to provide them with any guidance on incentive pricing.

For these reasons, I concur in part and dissent in part on today's order.

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William L. Massey  
Commissioner